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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,474	10/14/2003	Shahla C. Cisneros	PD-203019	8877

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THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
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2230 E. IMPERIAL HIGHWAY
EL SEGUNDO, CA 90245

EXAMINER

HARPER, TRAMAR YONG

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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01/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Advisory Action Before the Filing of an Appeal Brief</i>	Application No. 10/687,474	Applicant(s) CISNEROS ET AL.	
	Examiner TRAMAR HARPER	Art Unit 3714	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-14.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
In regards, to the 112 rejection, the rejection is maintained. Applicant relies on excerpts out of the specification taken out of context. Paragraph 30 states, that, "the questions and gaming application for playing the trivia game reside in the user's STB" and paragraph 31 states that, "approximately 100 questions per level may be provided to a user periodically." It is unclear as how the applicant can correlate the two statements to indicate that a player can play the game other than at a time of transmission of the gaming application. One can interpret the above to mean that the questions are provided periodically or transmitted to the gaming machine periodically in real-time. As such the rejection is maintained. Applicant furthermore argues the limitation initiating the game from the gaming application at a time other than a time of transmission of the gaming application primarily in regards to NTN and Allen. With respect to NTN, applicant notes that not only is the tournament of NTN held in real-time but being transmitted to various sites at the same time as the game played. The examiner contends that even through the tournament is held in real time that such a tournament could be over a extend period of time such as a week etc. "Real-time" is not limited to instantly especially since throughout the applicant's specification the game is considered played and updated in "real-time" but argued to be capable of being played at any time (see paragraphs 30-32). In regards, to Allen applicant argues that there is no broadcast at all of a gaming application in the gaming devices of Allen. Examiner respectfully disagrees, Allen teaches that at least updates to the games are broadcasted to the gaming machines. Some features include updates to tracks of racing games, courses for golf games, puzzle and trivia data are sent to the amusement game device. Allen further teaches that upon initiating of the tournament customized games are provided to the gaming machines for use in the specific type of defined tournament (paragraphs 31-34, 51). Allen furthermore teaches that a tournament may be based on completing a number of games with a period of time such as days, which clearly implies initiating the gaming application at a time other than transmission. At least in this regards the combination of references meet the current limitations. Further clarification is needed.
 12. ☐ Note the attached Information Disclosure Statement(s) (PTO/SR/08) Paper No(s) _____.